

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

KITRICH A. POWELL,

Petitioner,

V.

WILLIAM GITTERE, *et al.*,

Respondents.

Case No. 2:06-cv-01264-KJD-DJA

ORDER

WILLIAM GITTERE, *et al.*,

Respondents.

In this capital habeas corpus action, the petitioner, Kitrich A. Powell, represented by appointed counsel, filed a second amended habeas petition (ECF No. 105) on February 22, 2021. The respondents were due to respond to the second amended petition by May 24, 2021. See Order entered August 24, 2020 (ECF No. 100) (90 days for response).

In the meantime, on April 13, 2021, Powell filed a motion for stay (ECF No. 108), under *Ryan v. Gonzales*, 568 U.S. 57 (2013), on account of his alleged incompetency. Respondents' response to that motion is currently due on May 27, 2021. See Order entered April 29, 2021 (ECF No. 113). In view of the nature of that motion, and the fact that Respondents have been under a deadline for their response to the second amended petition, the Court will *sua sponte* extend the deadline for the motion for stay by 35 days.

Also on April 13, 2021, Powell filed a motion for leave of court to file under seal two exhibits in support of his motion for stay, both of which are letters from Powell to his counsel (ECF No. 110). Respondents' response to that motion is also currently due on May 27, 2021. See *id.* The Court will *sua sponte* extend by 15 days the deadline for response to the motion for leave to file the exhibits under seal.

1 On May 24, 2021, Powell filed a motion to suspend the briefing of the second
2 amended habeas petition pending the resolution of the motion for stay (ECF No. 114).
3 Powell's counsel informs the Court that Respondents do not oppose this motion. In view
4 of the allegation that Powell is currently incompetent, and the pending motion for a stay
5 on that ground, the Court will grant the motion to suspend the briefing of the second
6 amended petition.

7 **IT IS THEREFORE ORDERED** that Respondents' Motion to Suspend Briefing
8 Schedule (ECF No. 114) is **GRANTED**. Respondents' response to the second amended
9 petition, along with the further briefing of the second amended petition, is suspended
10 pending the resolution of the motion for stay. Deadlines for the response to the second
11 amended petition, and further briefing of the second amended petition, will be reset if
12 and when that becomes necessary.

13 **IT IS FURTHER ORDERED** that Respondents will have until and including
14 June 11, 2021, to respond to Petitioner's Motion for Leave to File Under Seal (ECF No.
15 110). Petitioner will have 15 days to file a reply to the response to that motion.

16 **IT IS FURTHER ORDERED** that Respondents will have until and including
17 July 1, 2021, to respond to Petitioner's Motion to Stay Capital Habeas Proceedings
18 (ECF No. 108). Petitioner will have 30 days to file a reply to the response to that motion.

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20 DATED THIS 25 day of May, 2021.
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24 KENT J. DAWSON,
25 UNITED STATES DISTRICT JUDGE
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